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24 HOUR FITNESS USA, INC. AND SPORT AND  
7 FITNESS CLUBS OF AMERICA

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA

11 GABE BEAUPERTHUY, et al.,

12 Plaintiffs,

13 v.

14 24 HOUR FITNESS USA, INC. a  
California corporation dba 24 HOUR  
FITNESS; SPORT AND FITNESS  
15 CLUBS OF AMERICA, INC., a California  
corporation dba 24 HOUR FITNESS,

16 Defendants.  
17

Case No. C 06 0715 SC

**STIPULATION AND ~~PROPOSED ORDER~~  
CONTINUING (1) PLAINTIFFS' MOTION TO  
COMPEL HEARING AND BRIEFING AND (2)  
CASE MANAGEMENT CONFERENCE**

COMPLAINT FILED: February 1, 2006  
TRIAL DATE: No date set.

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19 **RECITALS**

20 A. On April 25, 2011, Plaintiffs filed a Motion to Compel Arbitration to be heard at the  
21 same time as the Case Management Conference at 10:00 a.m. on June 24, 2011;

22 B. On May 2, 2011, Defendants moved to continue the hearing on the Motion to Compel  
23 and Case Management Conference on the basis of the unavailability of Defense counsel;

24 C. On May 9, 2011, the Court continued the hearing date on the Motion to Compel to  
25 July 8, 2011;

26 D. There is no trial date in this action;  
27  
28

1 E. The parties have been conducting further meet and confer efforts and have agreed to a  
2 face-to-face meeting to seek in good faith to resolve the arbitration issues concerning as many of the  
3 Plaintiffs/Claimants as is reasonably possible;

4 F. The parties' meet and confer efforts have included new information produced by 24  
5 Hour, which Plaintiffs' counsel did not have prior to filing the Motion to Compel;

6 G. The goal of the face-to-face meet and confer conference is to resolve, or at least  
7 narrow the issues to be decided in the pending Motion to Compel and may alleviate the need for the  
8 Court to address the issues;

9 H. Given defense counsel's international business-related travel schedule, the parties are  
10 unable to meet and confer prior to the currently scheduled hearing of July 8, 2011. Therefore,  
11 subject to the Court's approval of this stipulation, the parties' face-to-face meet and confer  
12 conference is presently scheduled for August 1, 2011 at San Francisco, California;

13 I. In light of the parties' attempt to resolve the issues, the parties agree that the Motion  
14 to Compel Arbitration and the Case Management Conference, subject to the Court's approval, shall  
15 be continued to a date after September 5, 2011 to allow the parties to resolve the or narrow the  
16 arbitration issues at issue in the Motion to Compel and Defendants to respond to same.

#### 17 STIPULATION

18 Without waiving any of their rights or positions or claims pertaining to issues relevant to the  
19 arbitration or arbitration process, the parties hereby stipulate that:

- 20 1. Counsel for the parties shall meet and confer face-to-face a good faith effort to  
21 negotiate and resolve all issues related to arbitration and the pending Motion to  
22 Compel;
- 23 2. The conference shall take place August 1, 2011 in San Francisco;
- 24 3. A client representative with full authority to negotiate all arbitration issues shall  
25 attend in person or counsel for 24 Hour shall have full client authority to negotiate all  
26 issues related to arbitration and the Motion to Compel without the need for client  
27 approval;  
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- 1           4.       The pending Motion to Compel Arbitration and Case Management Conference shall  
2                   be continued from July 8, 2011 to September 5, 2011, or the next available hearing  
3                   date thereafter, at 10:00 a.m. in Courtroom 1.

4           **SO STIPULATED:**

5           Dated: June 8, 2011

**LITTLER MENDELSON, P.C.**

7                   By: /s/ Laura Hayward  
8                   John C. Kloosterman  
9                   Laura E. Hayward  
10                  Littler Mendelson, P.C., Attorneys for  
11                  Defendant

12          Dated: June 8, 2011

**DONAHOO & ASSOCIATES**  
**FOLEY BEZEK BEHLE & CURTIS, LLP**

14                   By: /s/ Richard E. Donahoo  
15                  Richard E. Donahoo  
16                  Thomas G. Foley, Jr.  
17                  Justin P. Karczag  
18                  Attorneys for Plaintiffs

19                   **[PROPOSED] ORDER**

20           Upon reading the forgoing Stipulation, and good cause appearing, therefore,  
21           IT IS ORDERED THAT,

- 22           5.       Counsel for the parties shall meet and confer face-to-face a good faith effort to  
23                   negotiate and resolve all issues related to arbitration and the pending Motion to  
24                   Compel;  
25           6.       The conference shall take place August 1, 2011 in San Francisco;  
26           7.       A client representative with full authority to negotiate all arbitration issues shall  
27                   attend in person or counsel for 24 Hour shall have full client authority to negotiate all  
28                   issues related to arbitration and the Motion to Compel without the need for client  
                approval;

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The pending Motion to Compel Arbitration and Case Management Conference shall be continued from July 8, 2011 to September 9, 2011, ~~or the next available hearing date thereafter~~, at 10:00 a.m. in Courtroom 1.

The briefing schedule shall be pursuant to statute. IT IS SO ORDERED.

Dated: 6/9/11

